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25 UNITED STATES DISTRICT COURT
26 FOR THE NORTHERN DISTRICT OF CALIFORNIA
27 SAN FRANCISCO DIVISION

28 AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO,
et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 3:25-cv-03698-SI

**JOINT CASE MANAGEMENT
STATEMENT**

INTRODUCTION

Pursuant to the Court's April 29, 2025 order setting the initial case management conference and ADR deadlines (ECF No. 22), the Standing Order for All Judges of the Northern District of California, Federal Rules of Civil Procedure 16(b) and 26(f), and Civil L.R. 16-9, Plaintiffs and Defendants submit this Joint Case Management Statement in advance of the Initial Case Management Conference scheduled for August 1, 2025 at 2:30PM.

1. JURISDICTION AND SERVICE

This Court has issued two orders addressing jurisdiction to date. ECF 85, 120. Plaintiffs invoke the Court's jurisdiction under 28 U.S.C. § 1331. ECF 100 ¶ 26. Defendants dispute this Court's subject matter jurisdiction in a pending motion to dismiss. ECF 216 at 20–22. Plaintiffs disagree and will address that argument in their forthcoming response to the motion to dismiss. There are no disputed issues about personal jurisdiction, venue, or service.

2. FACTS

The facts are extensively addressed in the parties' briefing on Plaintiffs' motions for a temporary restraining order and preliminary injunction and this Court's orders resolving those motions. ECF 85, 124. In short, Plaintiffs challenge what they contend are unlawful reorganization of the federal government by the President and actions taken by the Office of Management and Budget ("OMB"), Office of Personnel Management ("OPM"), Department of Government Efficiency ("DOGE"), and Federal Agency Defendants to implement the reorganization. In Plaintiffs' view, the principal factual issues in dispute are the nature of and justifications for the direction, approvals, and requirements imposed on federal agencies by OMB, OPM, and DOGE, and the nature of and justifications for the reorganization actions taken by Federal Agency Defendants. In Defendants' view, the Complaint fails as a matter of law for reasons they have laid out in their motion to dismiss and in other filings in this case. Defendants do not think any factual disputes in this case are material or require further factual development.

3. LEGAL ISSUES

The principal disputed points of law are whether the President's Executive Order is ultra vires; whether the actions of OMB, OPM, and DOGE to implement the Executive Order, including

1 but not limited to the Memorandum as well as any direction, approval, or requirement imposed on
2 federal agencies, are ultra vires; whether those actions by OMB, OPM, and DOGE are not in
3 accordance with law, in excess of statutory authority, arbitrary and capricious, or taken without
4 observance of procedure required by law, 5 U.S.C. § 706(2); and whether actions by Federal
5 Agency Defendants to implement ARRs are not in accordance with law or arbitrary and
6 capricious, *id.* The parties dispute whether this Court has subject matter jurisdiction, and whether
7 there is final agency action reviewable under the APA. The parties also dispute whether the
8 Complaint adequately pleads any action of the President, OMB, OPM, or DOGE apart from the
9 Executive Order and Workforce Memorandum, and further dispute whether any such alleged
10 actions would properly be the subject of challenge in this case.

11 **4. MOTIONS**

12 The parties have engaged in significant motions practice regarding preliminary relief. The
13 Court's preliminary injunction, ECF 124, was the subject of stay decisions by the Ninth Circuit and
14 the Supreme Court. That injunction remains currently on appeal before the Ninth Circuit.

15 There are two currently pending motions that are fully briefed: (1) Plaintiffs' motion to
16 shorten time for Defendants to respond to a request for production, ECF 178, which is fully briefed
17 as of July 21, 2025; and (2) Defendants' motion for a protective order and order quashing
18 Plaintiffs' first set of requests for the production of documents, ECF 210, which is fully briefed as
19 of July 23, 2025.

20 There is one currently pending motion that is still being briefed: Defendants' motion to
21 dismiss, ECF 216. Plaintiffs intend to ask the Court for a 14-day extension of time to respond to
22 the motion; Defendants consent to that request.

23 Plaintiffs are evaluating whether a motion for further preliminary relief is warranted by the
24 facts and circumstances. The parties anticipate filing motions addressing any discovery issues and
25 any issues about the scope of the administrative record that cannot be resolved by consent.
26 Plaintiffs anticipate filing a summary judgment motion. Defendants believe the Complaint fails as
27 a matter of law and should be dismissed but of course reserve the right to seek summary judgment
28 or any other relief if the case proceeds past the motion to dismiss stage.

1 **5. AMENDMENT OF PLEADINGS**

2 The parties do not anticipate amending their pleadings at this time but reserve the right to
3 seek amendment consistent with the Federal Rules of Civil Procedure.

4 **6. EVIDENCE PRESERVATION**

5 The parties have reviewed the Guidelines Relating to the Discovery of Electronically Stored
6 Information. The parties have met and conferred pursuant to Federal Rule 26(f) about their
7 preservation obligations.

8 **7. DISCLOSURES**

9 The Court's initial scheduling order set a July 25, 2025 deadline for initial disclosures. ECF
10 22. The parties intend to comply by exchanging disclosures.

11 **8. DISCOVERY**

12 **A. Plaintiffs' Position**

13 Plaintiffs disagree with Defendants' position that no discovery is appropriate in this case
14 pending the resolution of Defendants' motion to dismiss and in light of the Supreme Court's stay
15 order. Plaintiffs have addressed these arguments extensively in the briefing on motions related to
16 expedited discovery pending before the Court. ECF 178 (Plaintiffs' motion to shorten time); ECF
17 210 (Defendants' motion for protective order and to quash). Plaintiffs' claims include both ultra
18 vires and APA claims and are not limited to an administrative record, although even with respect to
19 the APA claims and that record, Plaintiffs anticipate disputes and the need for extra-record
20 discovery.

21 This Court has ordered expedited production of ARRs (ECF 214), which has been
22 administratively stayed by the Ninth Circuit pending review of Defendants' motion for emergency
23 stay pending resolution of their petition for mandamus. *In re Trump*, No. 25-4476 (9th Cir. filed
24 July 21, 2025).

25 Once discovery was open as of the Rule 26(f) conference on July 11, 2025, Plaintiffs served
26 an initial set of requests for production and moved to shorten Defendants' time to respond. ECF
27 178. Plaintiffs anticipate seeking additional written discovery on communications between OMB,
28 OPM, and DOGE and Federal Agency Defendants regarding the EO, Memorandum, and ARRs,

1 including submissions, responses, and discussions of the contents and timing of the ARRs, any
 2 approvals or disapprovals in whole or part, and any discussions of the requirements or adequacy of
 3 ARRs. Plaintiffs also anticipate seeking written discovery on OMB, OPM, DOGE, and Federal
 4 Agency Defendants' internal documents regarding the EO, Memorandum, and ARRs, including
 5 documents pertaining to ongoing implementation of the ARRs. Discovery may also be necessary
 6 to "ascertain the contours of the precise policy at issue." *Hisp. Affs. Project v. Acosta*, 901 F.3d
 7 378, 388 (D.C. Cir. 2018); *see also Doe I v. Nielsen*, No. 18-CV-02349-BLF(VKD), 2018 WL
 8 4266870, at *2 (N.D. Cal. Sept. 7, 2018); *All. for Retired Americans v. Bessent*, No. CV 25-0313
 9 (CKK), 2025 WL 1114350, at *3 (D.D.C. Mar. 20, 2025).

10 Plaintiffs also anticipate taking depositions, including depositions under Federal Rule
 11 30(b)(6). Because of Defendants' position that no discovery is warranted, the parties have not
 12 agreed to an E-Discovery order or reached any agreement about the scope or timing of discovery.

13 **B. Defendants' Position**

14 Defendants believe that no discovery is warranted in this case for many of the same reasons
 15 they believe the document requests Plaintiffs have issued should be the subject of a protective
 16 order. Defendants' arguments are set forth in those filings, and thus are not repeated at length
 17 here. But in short, to the extent Plaintiffs have cognizable APA claims, which Defendants dispute,
 18 such claims should be limited to the administrative record for any final agency actions challenged.
 19 As to Plaintiffs' ultra vires claims, those fail as a matter of law. And in any event, Plaintiffs'
 20 request for communications between OMB, OPM, and DOGE and Federal Agency Defendants
 21 regarding the subjects at issue is not plausibly relevant to any issue, since, among other reasons,
 22 such communications are likely privileged in substantial part and in any event would not be a
 23 basis for challenging *otherwise lawful* agency actions (and, to the extent agencies take actions
 24 Plaintiffs believe are unlawful. Plaintiffs can attempt to challenge those actions if and when they
 25 occur).

26 **9. CLASS ACTIONS**

27 This case is not a class action.

1 **10. RELATED CASES**

2 There are no related cases pending before this Court as defined by Civil L.R. 3-12.
 3 Currently pending in the Ninth Circuit is a mandamus petition filed by Defendants seeking to
 4 compel the district court to vacate its July 18 order for production of ARRs. *In re Trump*, No. 25-
 5 4476 (9th Cir. filed July 21, 2025).

6 **11. RELIEF**

7 As set forth in the operative complaint, Plaintiffs seek declaratory relief, vacatur and
 8 preliminary relief under 5 U.S.C. §§ 705–06, preliminary and permanent injunctive relief, costs and
 9 fees, and other relief as the Court may deem proper. ECF 100 at 111–13.

10 **12. SETTLEMENT AND ADR**

11 The parties have not engaged in ADR. Plaintiffs have filed ADR certifications in
 12 compliance with Civil L.R. 16-8(b) and ADR L.R. 3-5(b). ECF 179–205. The parties will be
 13 prepared to discuss settlement and ADR options at the August 1, 2025 case management
 14 conference.

15 **13. OTHER REFERENCES**

16 The parties do not believe that this case is suitable for reference to binding arbitration, a
 17 special master, or the Judicial Panel on Multidistrict Litigation.

18 **14. NARROWING OF ISSUES**

19 The parties do not believe that it is possible to narrow the issues by agreement at this time.

20 **15. SCHEDULING**

21 **A. Plaintiffs' Position**

22 Plaintiffs propose that discovery be completed by the end of 2025, with a schedule for
 23 summary judgment briefing thereafter.

24 In addition, the administrative record deadline is July 28, 2025. *See* Civil L.R. 16-5; ECF
 25 25. Defendants have informed Plaintiffs that they do not intend to comply with this deadline, both
 26 because they believe that the Local Rule does not require it when a party files a motion to dismiss
 27 and because they do not think it is possible to assemble an administrative record given Defendants'
 28 uncertainty about the exact actions under challenge.

1 Defendants' position is based on a misreading of Civil Local Rule 16-5. The rule provides
2 that in an administrative record action, "the defendant must serve and file an answer, together with
3 a certified copy of the transcript of the administrative record, within 90 days of receipt of service of
4 the summons and complaint." The plain terms of this Rule do not provide an exception for filing a
5 motion to dismiss, which will significantly delay this case. The lack of any such exception is
6 consistent with the general practice of this Court not to stay discovery pending such motions.
7 Defendants' filing of a motion to dismiss rather than an answer does not relieve them of the
8 obligation to serve and file the administrative record within 90 days of service. In addition, good
9 cause exists for the Court to enforce this deadline and prevent further delays, in light of
10 Defendants' ongoing and imminent actions challenged as unlawful.

11 Defendants' claim that they cannot assemble an administrative record lacks merit.
12 Plaintiffs have extensively explained their claims, including in the recent briefing after the
13 Supreme Court's stay order. Plaintiffs challenge, among other things, the actions that OMB, OPM,
14 DOGE, and the Federal Agency Defendants have taken to implement the President's Executive
15 Order, the OMB/OPM Memorandum, and the ARRP. Defendants are well aware of the actions
16 they themselves have taken, including OMB and OPM approvals and OMB, OPM, and DOGE
17 directives to agencies regarding reorganization and workforce reduction. Defendants are, in
18 particular, well aware of the actions implementing the ARRP that have already been approved and
19 are being implemented by the Federal Agency Defendants, including but not limited to 40 RIFs at
20 17 agencies discussed in Defendants' Supreme Court and Ninth Circuit filings, and addressed by
21 this Court's recent order. ECF 214. That there may be multiple actions taken by agencies does not
22 insulate Defendants from judicial review. *See New York v. Trump*, 133 F.4th 51, 68 (1st Cir. 2025)
23 ("[W]e are not aware of any supporting authority for the proposition that the APA bars a plaintiff
24 from challenging a number of discrete final agency actions all at once."). The administrative
25 record due Monday should include, at a minimum, all materials considered for the following
26 actions: any OMB/OPM approvals of Federal Agency Defendants ARRP; any OMB, OPM, or
27 DOGE directives to agencies regarding the timing or amount of workforce reduction pursuant to
28 the EO; and agency actions implementing the approved ARRP, including, at a minimum, 40 RIFs

1 at 17 agencies. To the extent that Plaintiffs have not been able to identify with further specificity
2 the actions taken to approve or implement the ARRs, that is because Defendants have carried out
3 their implementation of ARRs in secret, and that only serves to justify discovery to determine the
4 contours of the actions. *Doe I*, 2018 WL 4266870, at *2 (finding “that discovery of the nature of
5 the agency action issue is necessary in order for the parties and the Court to determine the scope of
6 the administrative record to be produced”).

7 **B. Defendants’ Position**

8 Local Rule 16-5 is tied to the filing of Defendants’ “answer,” so by its terms does not apply
9 when Defendants file a motion to dismiss that does not implicate the contents of the administrative
10 record. The plain language (as well the intent) of this provision suggests that the administrative
11 record is not required until the defendant answers and, if a motion to dismiss is filed, the
12 requirement is deferred until the answer is filed—because only then the case is at issue and ready
13 to be briefed on the merits. And that makes particular sense here, where the parties dispute whether
14 this Court has jurisdiction over Plaintiffs’ APA challenges (especially now that Plaintiffs
15 characterize those challenges as not tied to the Workforce Executive Order and Workforce
16 Memorandum), and where the parties also dispute whether Plaintiffs have even properly identified
17 agency actions for which Defendants would certify a record. Indeed, Defendants understand
18 Plaintiffs’ position to be that they need discovery to even determine what alleged policies they are
19 challenging, which only confirms that these are not proper APA claims.

20 And in any event, it is simply impossible for Defendants to file an administrative record for,
21 to use the Amended Complaint’s sprawling language, “[t]he implementation of ARRs by RIFing
22 federal employees, closing offices, functions, and programs, and otherwise reorganizing agency
23 functions,” since this does not identify any distinct agency action and encompasses many potential
24 actions that have not even taken place (and might not take place). Plaintiffs’ example of 40 RIFs at
25 17 agencies simply illustrates the point since, as Defendants have explained, the source of that
26 estimate included actions that were not yet final and may not even take place (and particularly may
27 not take place given potentially changed circumstances since the Court’s May 9 TRO). This is not
28 because, as Plaintiffs insist, “Defendants have carried out their implementation of ARRs in

secret.” RIFs and reorganizations, if and when they occur, will not be carried out in secret. Plaintiffs’ “secret” characterization simply reflects their own choice to bring a broad systemic challenge that is not tied to any specific agency action, rather than wait for specific agency actions, and attempt to challenge them on grounds specific to that action, as the APA requires.

16. TRIAL

The parties suggest that consideration of trial format be deferred until after the close of discovery and disposition of any summary judgment motions.

17. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS

Plaintiffs filed their Certification of Conflicts and Interested Entities or Persons on April 28, 2025. ECF 2. As stated in the certificate, Plaintiffs are not aware of any conflict or interest (other than the named parties) to report.

18. PROFESSIONAL CONDUCT

All attorneys of record for the parties have reviewed the Guidelines for Professional Conduct for the Northern District of California.

19. SUCH OTHER MATTERS AS MAY FACILITATE THE JUST, SPEEDY, AND INEXPENSIVE DISPOSITION OF THIS MATTER

The parties have not identified any such other matters at this time.

DATED: July 25, 2025

Respectfully submitted,

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